

In the United States Court of Federal Claims
OFFICE OF SPECIAL MASTERS
No. 22-1360V

RAJENDER TOMAR,

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: July 9, 2024

*Leah VaSahnja Durant, Law Offices of Leah V. Durant, PLLC, Washington, DC, for
Petitioner.*

Sarah Christina Duncan, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION AWARDING DAMAGES¹

On September 23, 2022, Rajender Tomar filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, et seq.²(the “Vaccine Act”). Petitioner alleges that he suffered Guillain-Barré Syndrome (“GBS”), a defined Table injury, after receiving an influenza (“flu”) vaccine on September 26, 2019.³ Petition at 1 ¶¶ 1, 15. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On April 29, 2024, a ruling on entitlement was issued, finding Petitioner entitled to compensation for his GBS. On July 8, 2024, Respondent filed a proffer on award of compensation (“Proffer”) indicating Petitioner should be awarded \$162,500.00,

¹ Because this Decision contains a reasoned explanation for the action taken in this case, it must be made publicly accessible and will be posted on the United States Court of Federal Claims' website, and/or at <https://www.govinfo.gov/app/collection/uscourts/national/cofc>, in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2018) (Federal Management and Promotion of Electronic Government Services). **This means the Decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

³ As Respondent observed in his Rule 4(c) Report, Petitioner also received tetanus, diphtheria, acellular pertussis and measles, mumps, and rubella vaccines. See Rule 4(c) Report at 1 n.1 (citing Exhibit 2 at 4)

representing compensation for pain and suffering. Proffer at 1-2. In the Proffer, Respondent represented that Petitioner agrees with the proffered award. *Id.* Based on the record as a whole, I find that Petitioner is entitled to an award as stated in the Proffer.

Pursuant to the terms stated in the attached Proffer, **I award Petitioner a lump sum payment of \$162,500.00, representing compensation for pain and suffering in the form of a check payable to Petitioner.** This amount represents compensation for all damages that would be available under Section 15(a).

The Clerk of Court is directed to enter judgment in accordance with this decision.⁴

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master

⁴ Pursuant to Vaccine Rule 11(a), entry of judgment can be expedited by the parties' joint filing of notice renouncing the right to seek review.

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS
OFFICE OF SPECIAL MASTERS**

RAJENDER TOMAR,)	
)	
Petitioner,)	
)	
v.)	No. 22-1360V
)	Chief Special Master Corcoran
)	ECF
SECRETARY OF HEALTH AND HUMAN SERVICES,)	
)	
)	
Respondent.)	
)	

RESPONDENT’S PROFFER ON AWARD OF COMPENSATION

On September 23, 2022, Rajender Tomar (“petitioner”) filed a petition for compensation under the National Childhood Vaccine Injury Act of 1986, 42 U.S.C. §§ 300aa-1 to -34 (“Vaccine Act” or “Act”), as amended. Petitioner alleged that he suffered Guillain-Barré syndrome (“GBS”) as a result of an influenza (“flu”) vaccine he received on September 26, 2019 (a “Table injury”).¹ Petition at 1, 5. On April 29, 2024, the Secretary of Health and Human Services (“respondent”) filed a Rule 4(c) Report recommending that compensation be awarded for GBS,² and the Chief Special Master issued a Ruling on Entitlement finding petitioner entitled to compensation the same day. ECF Nos. 26, 27.

¹ Petitioner also received Tdap and MMR vaccines on the same date. Exhibit 2 at 4.

² As respondent noted in the Rule 4(c) Report, GBS is not a Table injury for the MMR or Tdap vaccine, and respondent denies that the MMR or Tdap vaccine, alone or in combination, caused petitioner’s GBS or any other injury or condition. ECF No. 26 at 1 n.2.

I. Items of Compensation

A. Pain and Suffering

Respondent proffers that petitioner should be awarded \$162,500.00 in actual pain and suffering. Petitioner agrees.

This amount represents all elements of compensation to which petitioner is entitled under 42 U.S.C. § 300aa-15(a). Petitioner agrees.

II. Form of the Award

Petitioner is a competent adult. Evidence of guardianship is not required in this case. Respondent recommends that the compensation provided to petitioner should be made through a lump sum payment as described below and requests that the Chief Special Master's decision and the Court's judgment award the following³: a lump sum payment of \$162,500.00, representing compensation for pain and suffering, in the form of a check payable to petitioner, Rajender Tomar.

III. Summary of Recommended Payments Following Judgment

Lump sum payable to petitioner, Rajender Tomar:	\$162,500.00
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Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

C. SALVATORE D'ALESSIO
Director
Torts Branch, Civil Division

HEATHER L. PEARLMAN
Deputy Director
Torts Branch, Civil Division

³ Should petitioner die prior to entry of judgment, the parties reserve the right to move the Court for appropriate relief. In particular, respondent would oppose any award for future lost earnings and future pain and suffering.

VORIS E. JOHNSON
Assistant Director
Torts Branch, Civil Division

s/ Sarah C. Duncan
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